

APPEAL NO. 040247
FILED MARCH 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 6, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease; that the claimed compensable injury does not include an injury to the right upper extremity diagnosed as right carpal tunnel syndrome or inflammation of the "CMC joint" of the right thumb; and that the claimant has not had disability. The claimant appeals the hearing officer's determinations on the disputed issues, contending that they are against the great weight and preponderance of the evidence. The respondent (carrier) asserts that the evidence supports the hearing officer's determinations on the disputed issues.

DECISION

Affirmed.

The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities for the employer. An occupational disease includes a repetitive trauma injury. Section 401.011(34). The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36). Conflicting evidence was presented at the CCH regarding whether the claimant sustained a repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determination that the claimant did not sustain a compensable injury in the form of an occupational disease is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Since we are affirming the hearing officer's determination that the claimant did not sustain a compensable injury in the form of an occupational disease, we conclude that he did not err in determining against the claimant on the issue of the extent of the claimed compensable injury, because there was no compensable injury. In addition, the hearing officer did not err in determining that the claimant has not had disability because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge